

**III. Remarks**

Claims 1-3, 6-8, 11-16, 18-22 and 24-25 are pending. Claims 4, 5, 17 and 23 have been cancelled without prejudice. Claims 9 and 10 were previously cancelled. Claims 1 and 11 have been amended to incorporate the limitations of claims 4 and 5. Claims 7, 14-16, 18-21 and 24-25 have been amended to correct dependency, as they were formerly dependent on claims 4 or 5, which have been cancelled. Applicants respectfully submit that no new matter has been added by virtue of this amendment.

**A. Rejections under 35 U.S.C. § 102(b)**

**i. Rejection over WO 89/09066**

In the Office Action, the Examiner rejected claims 1-4, 6-8, 11-16 and 18-25 under 35 U.S.C. § 102 (b) as being anticipated by WO 89/09066 (hereinafter "the '066 reference").

In response, the limitation of claim 5, "... wherein the weight ratio of hydrophobic fusible material to hydrophilic, organic polymeric wicking agent in said mixture is in the range from about 8:1 to about 16:1 ..." has been incorporated into independent claims 1 and 11. Applicants note that the Examiner indicated that claim 5 was novel over the '066 reference.

In view of the above, Applicants respectfully request that the rejection over the '066 reference under 35 U.S.C. § 102(b) be removed.

**ii. Rejection over US 4,828,836**

In the Office Action, the Examiner rejected claims 1-4, 8, 11, 12, 14-16 and 24-25 under 35 U.S.C. § 102(b) as being anticipated by U.S. 4,828,836 to Elger (hereinafter "the Elger reference").

In response, the limitation of claim 5, "... wherein the weight ratio of hydrophobic fusible material to hydrophilic, organic polymeric wicking agent in said mixture is in the range from about 8:1 to about 16:1 ..." has been incorporated into independent claims 1 and 11. Applicants note that the Examiner indicated that claim claim 5 was novel over the Elger reference.

In view of the above, Applicants respectfully request that rejection under 35 U.S.C. §102(b) over the Elger reference be removed.

**B. Rejections under 35 U.S.C. § 103(a)**

**i. Rejection over WO 89/09066**

In the Office Action, the Examiner rejected claims 5 and 17 under 35 U.S.C. § 103(a) as being unpatentable over the '066 reference.

Applicants note that claims 5 and 17 have been cancelled and that the limitations of claims 4 and 5 have been incorporated into independent claims 1 and 11.

With respect to independent claims 1 and 11, Applicants respectfully submit that the '066 reference fails to teach or suggest the claimed active agent dispersed in a matrix comprising "... a mixture of a hydrophobic fusible material having a melting point of greater than 40°C and a hydrophilic, organic, polymeric fusible wicking agent, wherein the weight ratio of hydrophobic fusible material to hydrophilic, organic polymeric wicking agent in said mixture is in the range from about 8:1 to about 16:1..."

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) over the '066 reference be removed.

**ii. Rejection over US 4,828,836**

In the Office Action, the Examiner rejected claims 5 and 17 under 35 U.S.C. § 103(a) as being unpatentable over the Elger reference, U.S. 4,828,836.

Applicants note that claims 5 and 17 have been cancelled and that the limitations of claims 4 and 5 have been incorporated into independent claims 1 and 11.

With respect to independent claims 1 and 11, Applicants respectfully submit that the '066 reference fails to teach or suggest the claimed active agent dispersed in a matrix comprising "... a mixture of a hydrophobic fusible material having a melting point of greater than 40°C and a hydrophilic, organic, polymeric fusible wicking agent, wherein the weight ratio of hydrophobic fusible material to hydrophilic, organic polymeric wicking agent in said mixture is in the range from about 8:1 to about 16:1..."

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) over the Elger reference be removed.

**C. Double Patenting Rejection**

In the Office Action, the Examiner rejected claims 1-8 and 11-15 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-33 of U.S. 5,965,163 (hereinafter "the '163 patent").

This rejection is traversed. Applicants submit that the claims of the '163 patent fail to teach or suggest the claimed active agent dispersed in a matrix comprising "... a mixture of a hydrophobic fusible material having a melting point of greater than 40°C and a hydrophilic, organic, polymeric fusible wicking agent, wherein the weight ratio of hydrophobic fusible material to hydrophilic, organic polymeric wicking agent in said mixture is in the range from about 8:1 to about 16:1..."

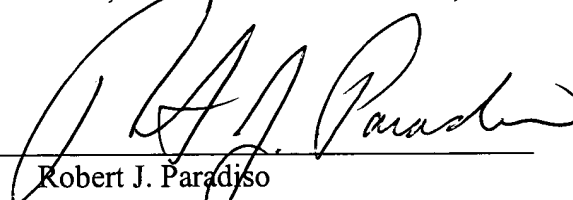
Accordingly, Applicants respectfully request that the double patenting rejection over the '163 patent be removed.

**IV. Conclusion**

In view of the actions taken and arguments presented, Applicants respectfully submit that the pending claims are in condition for allowance. An early and favorable Action on the merits is earnestly solicited.

If it is determined that any additional fees are due or that any fee has been overpaid, the Commissioner for Patents is hereby authorized to charge said fees or credit any overpayment to Deposit Account No. 50-0552.

Respectfully submitted,  
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